

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION

CHARLOTTE SMITH, CHANDLER SMITH,
ET AL

PLAINTIFFS

VS.

CIVIL ACTION NO.: 1:07CV113-M-D

BRANDON PRESLEY, ET AL.

DEFENDANTS

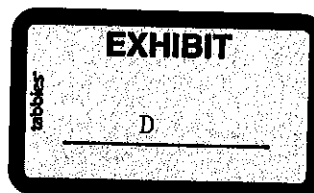
DEPOSITION OF TAJUANA LEE SMITH

TAKEN IN THE LAW OFFICE OF GENE BARTON
102 NORTH CHURCH STREET, OKOLONA, MISSISSIPPI
ON MAY 30, 2008

APPEARANCES NOTED HEREIN

Reported by: VALERA EDWARDS-KNIGHT, CSR #1039

REID, BROWN & KNIGHT COURT REPORTING
14 COUNTY ROAD 337
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1 her car, and he grabbed her?

2 A. She was walking. She turned. She was
3 saying you don't have to explain S-H-I-T to me, and
4 she was turning and walking towards to get in her
5 car. And that is when he grabbed her and threw her
6 on the car.

7 Q. When he grabbed her, do you recall where
8 Chandler was?

9 A. Chandler was in the car.

10 Q. So he was already in?

11 A. He was already in the car, yes.

12 Q. Where was he in the car, which side of the
13 car?

14 A. He was on the passenger side, in the front.

15 Q. Was anybody else in the car?

16 A. No.

17 Q. All right. When Officer Turner grabbed
18 her, where did he grab her?

19 A. He grabbed her by one arm. He twisted her
20 arm around and the back of her neck and put her down
21 on the car.

22 Q. Did he grab her right arm or left arm?

23 A. I don't recall which arm it was.

24 Q. Okay. Then he put her down on the hood of
25 her car?

1 A. Uh-huh (affirmative response.)

2 Q. All right. After she was put on the hood
3 of the car by Officer Turner, what happened?

4 A. He put handcuffs on her.

5 Q. Okay. Do you recall anything that was
6 being said either by Charlotte or by Officer Turner?

7 A. Charlotte told me to get Chandler.

8 Q. Okay.

9 A. And he got out of the car and, of course,
10 he was, you know, he was crying. He was upset. And
11 Darius and I were -- Chandler was walking towards me
12 and Darius. And Darius and I were walking towards
13 him. And the next thing I knew Officer Turner was
14 spraying pepper spray.

15 Q. Was Charlotte being handcuffed while her
16 son, Chandler, was getting out of the car while you
17 were moving towards him, and he was moving towards
18 you?

19 A. I'm not sure.

20 Q. Was she handcuffed before she asked you to
21 get Chandler?

22 A. I don't think she was, no.

23 Q. Did she say anything else other than to
24 instruct you to get her son?

25 A. I don't recall if she did. I'm not sure.

1 Q. Did you call to Chandler to come to you?

2 A. Yes, I did.

3 Q. What did you observe about Chandler while
4 sitting in the car?

5 A. He was upset.

6 Q. Was he crying?

7 A. Yes.

8 Q. Did he say anything?

9 A. If he did, I don't recall.

10 Q. So he gets out and comes towards you and
11 Darius while you and Darius are moving towards him?

12 A. Yes.

13 Q. How far -- I think earlier you said you
14 were maybe five or six feet from the front of
15 Charlotte's car?

16 A. When I was up against the wall, yes.

17 Q. So you were closer than that, obviously,
18 when you were moving towards Chandler?

19 A. When I was moving towards Chandler.

20 Q. So you would have only been a few feet from
21 Charlotte and Officer Turner?

22 A. Maybe, give or take.

23 Q. Did you see Officer Turner pull out his
24 pepper spray?

25 A. No, I didn't.

1 Q. Okay. Did you see him spray it?

2 A. Yes. I felt him spray it, also.

3 Q. Okay. Which hand did he use to --

4 A. I'm not sure.

5 Q. -- spray the pepper spray?

6 A. I have no idea.

7 Q. Was he looking at you when he sprayed the
8 pepper spray?

9 A. I'm not sure who he was looking at. I
10 don't know.

11 Q. Was he looking towards Charlotte when he
12 sprayed the pepper spray?

13 A. I'm not sure who he was looking at. I
14 don't know. I can't answer that.

15 Q. Do you recall whether the spray was just at
16 you, or did it cover an area around the car?

17 A. It covered an area. I mean, it hit
18 Chandler. It hit Darius, and it hit me.

19 Q. So was it like Officer Turner sprayed it in
20 an arc or just in one specific spot?

21 A. I'm not sure.

22 Q. But it seemed to cover an area?

23 A. It covered an area. Now, how he sprayed
24 it, I don't know. I can't answer that.

25 Q. When Charlotte was placed on the hood of

1 say that there weren't any others in the area, but I
2 don't know of any. I don't recall.

3 Q. All right. What happened after the pepper
4 spray was used?

5 A. Hadji and I, we took the boys into Dollar
6 General, and we started to wash their eyes out and
7 mine, too. Darius ran over to next door to my
8 sister's house and washed his eyes out.

9 Q. I may have misheard you, but I thought you
10 said Hadji and you took "the boys" --

11 A. Yes.

12 Q. -- into the Dollar General?

13 A. Yes.

14 Q. What other boys?

15 A. Darius and Chandler.

16 Q. Okay. So you took Darius and Chandler
17 inside Dollar General --

18 A. And myself, yes.

19 Q. Where did you go inside Dollar General?

20 A. Into the bathroom.

21 Q. Did you go in the bathroom with your son?

22 A. Yes.

23 Q. And Chandler?

24 A. Yes.

25 Q. Was this in the men's restroom or the

1 women's or --

2 A. I have no idea. I had pepper spray in my
3 eyes, so I don't know.

4 Q. So you went in there and you got water on
5 your eyes?

6 A. Yes.

7 Q. And the boys got water on their eyes?

8 A. Yes. Well, Darius wasn't able to get
9 enough, so he went next door to my sister's house and
10 washed his eyes.

11 Q. Did he get hit by more of it than you and
12 Chandler?

13 A. Yes. Well, I can't say he got hit more
14 than Chandler. He got hit with more than I did.

15 Q. Okay. As both of you approached Chandler,
16 was he in front of you when Officer Turner used the
17 spray?

18 A. I can't recall.

19 Q. How did the pepper spray affect you?

20 A. It burned.

21 Q. Did you just have it in your eyes, or did
22 you have it on your skin?

23 A. In my eyes, on my skin, and in my mouth.

24 Q. Okay. The skin, what was affected? Was
25 that on your face?

1 A. Yes.

2 Q. Were you able to flush that out?

3 A. Yes.

4 Q. Did the burning stop?

5 A. Later on that night.

6 Q. Okay. Did it cause your eyes to water?

7 A. Yes.

8 Q. What about Chandler, did the flushing out
9 of the eyes help him some?

10 A. Not a lot.

11 Q. Was he still complaining of the burning?

12 A. Yes, he was.

13 Q. Did you stay with Chandler?

14 A. Chandler stayed with me, yes.

15 Q. Your son went to your other sister's house?

16 A. Yes.

17 Q. Did your son come back from your sister's
18 house?

19 A. Yes.

20 Q. Okay. Was he able to get the pepper spray
21 washed off his face, some out of his eyes?

22 A. Some of it, yes.

23 Q. So he was still experiencing some burning?

24 A. Of course, yes.

25 Q. How long did he experience that burning?

1 Q. Then the use of the spray would have been
2 -- would that have been a matter of a few more
3 seconds?

4 A. It's possible.

5 Q. So it's possible this whole thing could
6 have happened within 30 seconds?

7 A. I can't say one way or the other. I'm not
8 sure.

9 Q. That's all I'm asking. Would it be
10 possible that it could have been that quick?

11 A. I'm not sure.

12 Q. I understand when you are involved in these
13 things.

14 A. Yeah, it's hard to, you know, keeping track
15 of time.

16 Q. When you came outside after flushing your
17 eyes and Chandler's eyes, and Darius came back, what
18 happened when he came back?

19 A. Well, when I went outside, Darius hadn't
20 made it back. When I went outside, Officer Turner
21 asked me where was the other boy. And I said he went
22 to wash his eyes out.

23 He said, well, he's under arrest.

24 And I asked him for what.

25 And he said that he came at him in an

1 aggravated manner is the words that he used.

2 So by that time, Darius was starting to
3 come back over to the store. And I went over to him,
4 I said, well, you know, he said that he's going to
5 arrest you.

6 And Darius said, Mama, I didn't do
7 anything. For what?

8 I told him -- I said, he said you came at
9 him in an aggravated manner.

10 He said, but, Mama, I didn't.

11 I told him, I know that. Just don't say
12 anything. Just go ahead.

13 Q. All right. When your sister, Charlotte,
14 was placed on the hood of her car and Officer Turner
15 was putting her under arrest, did Darius say
16 anything?

17 A. No.

18 Q. You called for Chandler, correct?

19 A. Yes.

20 Q. Then both of you approached Chandler and
21 approached the car; is that right?

22 A. Chandler -- I called for Chandler.
23 Chandler was walking towards Darius and myself. And
24 Darius and I were walking towards Chandler.

25 Q. Which was you and Darius would have been

1 Q. So he was allowed to leave with Michael
2 Hall?

3 A. Yes.

4 Q. Was he brought to your house?

5 A. Yes.

6 Q. Did you have any conversation with him
7 about the incident at that point?

8 A. With who?

9 Q. With Darius.

10 A. Yes.

11 Q. What did you-all talk about?

12 A. Just, you know, told him don't worry about
13 it. In a situation like that, you know, when your
14 child is upset, you need to be calm. So I just
15 basically told him, you know, don't worry about it.
16 We'll get it taken care of.

17 Q. What was the condition of his eyes at that
18 point?

19 A. They were red, and they were swollen, and
20 they were running.

21 Q. Did you flush them out anymore?

22 A. All night long. Yes, we did.

23 Q. Now what happened with the youth court?
24 His case was in youth court?

25 A. Yes, in Monroe County. Of course, I had to

1 take him out of school, and we went before the youth
2 counselor. And, basically, she told him that he was
3 at the wrong place at the wrong time. However, that
4 this would be on his juvenile record until he's 18.
5 That if he's into any kind of trouble or doing
6 anything that would come back up. But, you know,
7 then at the same time, she told him that supposedly
8 when he's 18, that it would be wiped off, and it
9 would be sealed. But, you know, if that is true or
10 not, I'm not sure.

11 Q. Okay. Did you have more than one meeting?

12 A. No. We only had that one meeting.

13 Q. Okay. And how long after the arrest was
14 that -- did that meeting take place?

15 A. I can't give you an exact time. I honestly
16 don't remember.

17 Q. Was it the next week?

18 A. I don't remember.

19 Q. You had one meeting with the youth court
20 counselor who told you what you just described for
21 me, and that's all? Is that correct?

22 A. Yes. And, of course, he's on probation.

23 Q. What are the terms of his probation?

24 A. No trouble, which he's not a problem child,
25 and abide by curfew, the city's curfew.

1 Q. Is it just Nettleton police officers or
2 police officers in general?

3 A. Nettleton police officers.

4 Q. Okay. Do you have any police officers in
5 your family?

6 A. No.

7 Q. Do you have any friends that are police
8 officers?

9 A. Not off the top my head, I don't think I
10 do. I could be mistaken.

11 Q. Do you contend that Darius was arrested
12 because of his race?

13 A. I think that had a part to do with it, yes.

14 Q. What would be the basis for that? Why do
15 you think his race played a role?

16 A. Well, to start with Darius is a black young
17 man. And there in Nettleton any time a black child,
18 mainly a boy, is seen either walking the street or if
19 there's any trouble, it's always automatically
20 assumed that that child is in the wrong or that
21 person, simply because of race.

22 Q. Is this --

23 A. And, also, I say that because of a
24 statement that Darius told me Officer Turner made to
25 him when he arrived at the police station. He told

1 him to get out of the police car. And Darius asked
2 him how was he supposed to get out. And the Officer
3 Turner told him you should be getting used to getting
4 out of the back of police cars.

5 Q. This statement that you made about black
6 young men, principally in Nettleton, where they are
7 assumed to be in the wrong if they are out and about
8 walking --

9 A. Yes.

10 Q. -- whatever. Is this something that's just
11 talked about in the community? Is this kind of a
12 feeling among the black population of Nettleton?

13 A. Yes.

14 Q. Do you know any young black men -- does
15 your son -- with the exception of your son, do any
16 others that you believe have been wrongfully
17 arrested?

18 A. I'm not going to say wrongfully arrested,
19 but they've been stopped and harassed by some of the
20 officers there, yes.

21 Q. Do you know whether or not that's a city
22 policy to stop young black men and question them?

23 A. I would hope not. You know, surely it's
24 not the city policy; but, you know, to each his known
25 if that's what they choose to do whether it's policy

1 or not, they are going to do it.

2 Q. Do you believe that all the officers do
3 that?

4 A. No.

5 Q. Officer Heard, is he black?

6 A. Yes.

7 Q. Have you heard of him stopping young black
8 men?

9 A. Yes.

10 Q. Have you heard of him stopping young white
11 men?

12 A. Yes.

13 Q. Are you aware of any directive or
14 instruction by former Chief Adams for officers to
15 question young black men in the City of Nettleton?

16 A. I'm not aware of it, but it doesn't mean
17 it's not there.

18 Q. How old was Darius when this arrest took
19 place?

20 A. I think he was 16.

21 Q. What is his date of birth?

22 A. 7-29-90.

23 Q. You told me that you observed Chandler
24 crying --

25 A. Yes.

1 A. Yes, he does.

2 Q. Is he still involved in church?

3 A. Yes, he is.

4 Q. How is he involved in church? What kind of
5 stuff does he do?

6 A. He sings in the choir. He participates --
7 he's the usher board president. He's very active in
8 church, also.

9 Q. He still plays all those sports?

10 A. Yes, he does.

11 Q. Can you -- has there been any particular
12 opportunity that he's lost because of his arrest or
13 having this record?

14 A. At this point, not at this moment. But you
15 never know. His records should be sealed at the age
16 of 18, but you never know what will come up. No one
17 can guarantee me that this incident, be it right or
18 wrong, won't come up later on down the road.

19 Q. Are you aware that his record right now is
20 confidential?

21 A. Yes. I am aware that it is supposed to be
22 confidential, which he shouldn't have a record.

23 Q. Well, does he enjoy a good reputation right
24 now?

25 A. Does he enjoy one?

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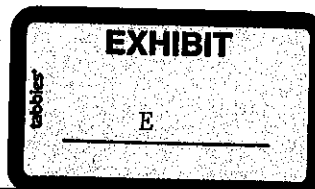
DEPOSITION OF CHANDLER SMITH

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1 A. No, sir.

2 Q. All right. What did you see happen after
3 the policeman arrived?

4 A. They was just talking, and my mama was
5 asking him questions and stuff. That's it.

6 Q. Do you remember anything that was said?

7 A. (Deponent moved head from side to side.)

8 Q. Is that a no?

9 A. No.

10 Q. You got to make sure to give a verbal
11 response, so she can type it down. She can type down
12 your head nodding, but she needs to make sure you say
13 yes or no. We want to know what that is, okay?

14 A. Yes, sir.

15 Q. So you didn't hear anything. You can't
16 remember anything that was said?

17 A. No, sir.

18 Q. You just remember your mother speaking to
19 Officer Turner?

20 A. Yes, sir.

21 Q. Was Officer Turner also talking to those
22 girls that were involved in the fight?

23 A. Yes, sir.

24 Q. Do you remember anything he said to them?

25 A. No, sir.

1 Q. Did he raise his voice at them?

2 A. No, sir.

3 Q. Did those girls raise their voice?

4 A. A little bit.

5 Q. Were they -- even when Officer Turner were
6 there, were those girls still trying to yell at each
7 other?

8 A. Yes, sir.

9 Q. Was Officer Turner trying to get them to be
10 quiet?

11 A. Yes, sir.

12 Q. What do you remember happened after your
13 mother was speaking to Officer Turner?

14 A. After she --

15 Q. Let me ask it a better way. When your
16 mother was talking to Officer Turner and asking him
17 questions, where were you?

18 A. I was in the car.

19 Q. You had already gotten in the car?

20 A. Yes, sir.

21 Q. Where in the car?

22 A. In the front seat.

23 Q. Passenger side?

24 A. Yes, sir.

25 Q. Was anyone else in the car with you?

1 A. No, sir.

2 Q. So your mother is talking to Officer
3 Turner. You had gotten in the car. What is the next
4 thing you remember seeing?

5 A. My mama was put down on the hood of her
6 car.

7 Q. Okay. So right in front of you?

8 A. Yes, sir.

9 Q. She was facing you on the hood?

10 A. Yes, sir.

11 Q. How did Officer Turner put her down on the
12 hood? Do you remember?

13 A. No, sir.

14 Q. You just remember her being placed on the
15 hood?

16 A. Yes, sir.

17 Q. Was she thrown on the hood?

18 A. (Deponent moved head from side to side.)

19 No, sir.

20 Q. She was just bent over and put on the hood?

21 A. It was kind of rough like that.

22 Q. It was kind of rough but not like throwing
23 her?

24 A. Yes, sir.

25 Q. So it was a forceful -- Officer Turner

1 forcefully put her on the hood. You just don't
2 remember her being thrown on the hood?

3 A. Yes, sir.

4 Q. Do you remember how he put her on the hood,
5 how he used his hands?

6 A. He -- no, sir.

7 Q. All right. Now, after you saw your mother
8 being put on the hood of the car, then what do you
9 remember? Did you do something?

10 A. I was crying.

11 Q. Okay. So you started crying when that
12 happened?

13 A. Yes, sir.

14 Q. Did you stay in the car?

15 A. Yes, sir.

16 Q. Did you witness Officer Turner put
17 handcuffs on your mother?

18 A. Yes, sir.

19 Q. When he put handcuffs on your mother, were
20 you in the car?

21 A. Yes, sir.

22 Q. Did you ever get out of the car?

23 A. When he was putting handcuffs on her?

24 Q. Yes, sir.

25 A. When my auntie called me out there I did.

1 Q. Your auntie, who is that?

2 A. Tajuana Smith.

3 Q. Okay. So Tajuana Smith was there as well?

4 A. Yes, sir.

5 Q. And where was she?

6 A. She was out by -- kind of in front of our
7 car.

8 Q. Okay. Had she been talking to Officer
9 Turner as well?

10 A. I don't know.

11 Q. So you remember Tajuana Smith calling for
12 you?

13 A. (Deponent moved head up and down.)

14 Q. What did she say?

15 A. Come here.

16 Q. Okay. Was your window down?

17 A. Yes, sir.

18 Q. So when she said that, what did you do?

19 A. I got out of the car and went to her.

20 Q. Okay. To go to your aunt, Tajuana Smith,
21 did you have to pass by your mother and Officer
22 Turner?

23 A. Yes, sir.

24 Q. Did anything happen when you passed by
25 Officer Turner?

1 A. He pulled out the pepper spray and sprayed
2 me and my cousin, Darius Smith, and my auntie,
3 Tajuana Smith.

4 Q. So Darius was standing -- was Darius
5 standing by your aunt?

6 A. Yes, sir.

7 Q. So as you went by the officer, you got
8 sprayed with pepper spray?

9 A. Yes, sir.

10 Q. If you can, describe this a little more
11 specific for me. By the time you got out of the car,
12 did you notice whether or not Officer Turner had his
13 pepper spray out?

14 A. When I got out of the car, I was walking to
15 my auntie, and I turned around, and that's when I saw
16 the pepper spray. It hit me in my eyes.

17 Q. So you passed Officer Turner and turned
18 around?

19 A. Yes, sir.

20 Q. Had you already gotten to your aunt?

21 A. Yes, sir.

22 Q. So you get out, walk to your aunt, you turn
23 around, and then that's when you see the pepper
24 spray?

25 A. Yes, sir.

1 Q. How was Officer Turner using the pepper
2 spray? Was he facing you when he sprayed it, or was
3 he spraying it while he was looking towards your
4 mother?

5 A. I don't know.

6 Q. Could you tell whether he was trying to aim
7 it at you?

8 A. No, sir.

9 Q. When you got to your aunt and turned around
10 and got hit with the pepper spray, was Darius
11 standing there as well?

12 A. Yes, sir.

13 Q. Was he always standing by his aunt [sic]
14 the whole -- had he been standing by his aunt the
15 whole time?

16 A. Tajuana is his mother.

17 Q. I'm sorry, your aunt but his mother. Was
18 he standing by his mother the whole time?

19 A. Yes, sir.

20 Q. Do you remember ever seeing him approach
21 Officer Turner?

22 A. No, sir.

23 Q. When you were in the car and your mother
24 was placed on the hood, could you see Darius?

25 A. Yes, sir.

1 Q. Okay. Did he tell you later that he had
2 run to your aunt's house to wash out his eyes?

3 A. No, sir.

4 Q. So he takes off to your aunt's house. And
5 correct me if I'm wrong, but are you just saying that
6 you just assumed he was going to wash out his eyes?

7 A. Yes, sir.

8 Q. Now what did you experience from the pepper
9 spray?

10 A. It was burning.

11 Q. Okay. It got in your eyes?

12 A. Yes, sir.

13 Q. Did it get anywhere else on your skin?

14 A. No, sir. In my eyes and kind of around
15 here (indicating on his face.)

16 Q. Just around your eyes and that part of your
17 face?

18 A. Yes, sir.

19 Q. What did it feel like?

20 A. It was a very painful feeling. Something I
21 never want to feel again.

22 Q. Okay. It was burning your eyes?

23 A. Yes, sir.

24 Q. Were your eyes watering?

25 A. Yes, sir.

1 Q. Did you start rubbing your eyes?

2 A. No, sir.

3 Q. What did you do after you felt that from
4 the pepper spray?

5 A. Somebody came and got me and took me to the
6 store and let me wash my eyes out.

7 Q. Do you remember who that was?

8 A. Yes, sir.

9 Q. Who was that?

10 A. Hadji Perry.

11 Q. Do you know Mr. Perry?

12 A. Yes, sir.

13 Q. How do you know him?

14 A. He is a close friend of my cousin, Darius
15 Smith.

16 Q. Okay. So a close friend of Darius?

17 A. Yes, sir.

18 Q. So did you go to a bathroom in the Dollar
19 General?

20 A. Yes, sir.

21 Q. Did you rinse your eyes out?

22 A. Yes, sir.

23 Q. Did that help?

24 A. Yes, sir.

25 Q. Did your eyes continue to burn after at

1 that?

2 A. Yes, sir.

3 Q. After you went to that bathroom in Dollar
4 General, where did you go? What did you do?

5 A. I went back outside.

6 Q. Okay. When you got back outside, was your
7 mother still there?

8 A. No, sir.

9 Q. Was the police car still there?

10 A. Yes, sir.

11 Q. Was Officer Turner still there?

12 A. Yes, sir.

13 Q. Did you ever see your mother in the back of
14 his police car?

15 A. Yes, sir.

16 Q. So when you came back out, she wasn't
17 standing there anymore? She was in the back of his
18 patrol car?

19 A. Yes, sir.

20 Q. Did you see Darius?

21 A. No, sir.

22 Q. Now did you stay there until your mother
23 left with Officer Turner?

24 A. No, sir.

25 Q. What did you do?

1 A. I left with my cousin, Passion White.

2 Q. Where did you go?

3 A. Over to Tajuana Smith's house.

4 Q. All right. Was Darius with you?

5 A. No, sir.

6 Q. What happened to Darius?

7 A. I think he was still over at my Aunt
8 Tanya's house.

9 Q. Now how long after that did you continue to
10 feel some burning in your eyes?

11 A. About a day.

12 Q. Took about a day?

13 A. Yes, sir.

14 Q. So you felt it the next day when you got
15 up?

16 A. Yes, sir.

17 Q. Was your skin burning any more?

18 A. A little bit.

19 Q. Okay. After that day, then you didn't feel
20 that any more?

21 A. Yes, sir.

22 Q. It went away?

23 A. Yes, sir.

24 Q. Okay. Did you see your mother later that
25 night?

1 A. Yes, sir.

2 Q. Was your mother just giving him a report
3 about your house being broken into?

4 A. Yes, sir.

5 Q. Did the officer do anything to make you
6 nervous or scared or anything like that?

7 A. No, sir.

8 Q. Now are you nervous or scared when you see
9 police officers?

10 A. No, sir.

11 Q. Did you ever see Officer Turner again after
12 that night?

13 A. No, sir.

14 Q. When Nettleton officers come to your school
15 to do programs about drugs and such, does that make
16 you nervous?

17 A. Not any more.

18 Q. How long was it after the incident where
19 you kept being nervous about police?

20 A. About three weeks.

21 Q. Then after that you felt better?

22 A. Yes, sir.

23 Q. Going back to the incident at the Dollar
24 General, do you remember anything that was said by
25 your Aunt Tajuana?

1 spray, was your mom still on the hood of her car?

2 A. Yes, sir.

3 Q. Do you remember seeing her being placed in
4 the patrol car?

5 A. No, sir.

6 Q. Do you think you have any other problems as
7 a result of the pepper spray or seeing your mother
8 arrested?

9 A. No, sir.

10 Q. Anything that we haven't talked about?

11 A. No, sir. Well, ever since my mama was
12 arrested, I started playing with my hair and twisting
13 it. And it makes me real nervous, and my hair
14 started falling out.

15 Q. All right. Do you still do that today?

16 A. A little bit.

17 Q. Do you take some medication for that now?

18 A. Yes, sir.

19 Q. You play any sports?

20 A. Yes, sir.

21 Q. What sports do you play?

22 A. Football and baseball.

23 Q. After this arrest of your mother, did you
24 have any problems with school or attending sporting
25 events or anything like that?

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION

CHARLOTTE SMITH, CHANDLER SMITH,
ET AL

PLAINTIFFS

VS.

CIVIL ACTION NO.: 1:07CV113-M-D

BRANDON PRESLEY, ET AL.

DEFENDANTS

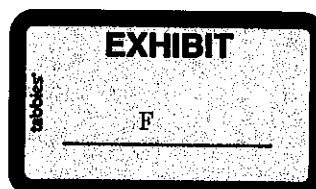
DEPOSITION OF DARIUS SMITH

TAKEN IN THE LAW OFFICE OF GENE BARTON
102 NORTH CHURCH STREET, OKOLONA, MISSISSIPPI
ON MAY 30, 2008

APPEARANCES NOTED HEREIN

Reported by: VALERA EDWARDS-KNIGHT, CSR #1039

REID, BROWN & KNIGHT COURT REPORTING
14 COUNTY ROAD 337
OXFORD, MS 38655
(662) 816-9863



VALERA H. KNIGHT, CSR
(662) 816-9863

1 A. Okay. Well, you talking about when she was
2 asking him or when he placed her under arrest?

3 Q. When they were having this conversation
4 about a complaint or --

5 A. They was -- it was like the entrance to
6 Dollar General, right in front of the entrance. We
7 were like on the left side of them on the sidewalk,
8 up against the wall.

9 Q. Just a few feet away?

10 A. Yes, sir.

11 Q. Okay. Close enough you could hear all the
12 back and forth between your Aunt Charlotte and
13 Officer Turner?

14 A. Yes, sir.

15 Q. Okay. Definitely could hear the curse word
16 that you heard from your Aunt Charlotte?

17 A. Yes, sir.

18 Q. Okay. When your Aunt Charlotte and Officer
19 Turner were talking, where was your cousin, Chandler?

20 A. He was in the car.

21 Q. Was he sitting in the passenger seat?

22 A. Yes, sir.

23 Q. In the front seat?

24 A. Yes, sir.

25 Q. All right. Then after your Aunt Charlotte

1 said what she said, which included the four-letter
2 word, did she try to walk away from Officer Turner?

3 A. Yes, sir. She was like walking -- when she
4 said it, she was, like, walking away from him.

5 Q. Okay.

6 A. And was going to get in the car.

7 Q. Okay. And he asked her to come back?

8 A. Yes, sir.

9 Q. And then she did come back?

10 A. No, sir, she didn't come back until, like,
11 he said, get over here now. Then she made her way
12 back over there.

13 Q. Okay. Is this back to the front of her
14 car?

15 A. Yes, sir. It's, like -- yeah, basically in
16 front of her car.

17 Q. Okay. This is kind of in a small area we
18 are talking about, just at the front of the store,
19 front row of the parking lot.

20 A. It was like crowded right there.

21 Q. Okay. Were there any other people around
22 besides you and your mother and the officer and your
23 Aunt Charlotte?

24 A. Two of the employees, my friend Hadji.

25 Q. Did you see any other bystanders?

1 A. I think Officer Turner was agitated.

2 Q. Okay. Did he appear be to irritated about
3 your aunt's questions?

4 A. Yes, sir.

5 Q. Okay. So he grabs her and puts her up
6 against the car?

7 A. Yes, sir.

8 Q. Did he put her on the hood or just up
9 against the side of the car?

10 A. It was on the hood. It was like on the
11 side, but on the hood. It's like -- like at a
12 diagonal way.

13 Q. I see. So her feet are touching the ground
14 and she's leaned over onto the hood of the car?

15 A. Yes, sir.

16 Q. Okay. Do you remember how he did that?
17 Would you be able to describe it for me?

18 A. It was rough. I think she -- I don't think
19 you should grab a woman anyway.

20 Q. I mean, it was quick and forceful?

21 A. Yes, sir.

22 Q. And did he grab -- what arm did he grab and
23 what arm did he use to grab her?

24 A. I'm not sure which arm he grabbed first. I
25 just remember him grabbing her and forcing her up

1 against the car and putting the handcuffs on her.

2 Q. All right. So when he did that and put her
3 on the hood of the car you said your cousin,
4 Chandler, who was in the front seat, said what?

5 A. Awe "H" no.

6 Q. Hell no?

7 A. Yes, sir.

8 Q. Okay. And did he get out?

9 A. Yes, sir.

10 Q. While he was saying that?

11 A. Yes, sir.

12 Q. And did he move towards Officer Turner?

13 A. He got out and looked like he was fixing to
14 go up there toward him, and I walked -- I go over
15 there to try and calm him down. And that's when he
16 turned around and started pepper spraying.

17 Q. Okay. So you heard him say, "awe, hell
18 no," get out, and as if he was going to head towards
19 Officer Turner, you moved in there to stop that?

20 A. Yes, sir.

21 Q. To calm him down?

22 A. Yes, sir.

23 Q. And about the time you did that, out came
24 the pepper spray?

25 A. Yes, sir.

1 Q. Did you see Officer Turner reach for the
2 pepper spray?

3 A. No, sir.

4 Q. Did you see him actually spray it, or do
5 you just recall getting sprayed on?

6 A. I remember getting it.

7 Q. Okay. Do you recall whether or not he was
8 facing you and looking at you when he sprayed it?

9 A. No, sir.

10 Q. He wasn't facing you?

11 A. No, sir.

12 Q. So he just reached out and while he was
13 taking care of --

14 A. He was -- like, he had it in his hand, and
15 he, like, sprayed it, like, behind him.

16 Q. Okay. So sprayed it in an arc behind him?

17 A. Yes, sir. Like he came around and sprayed
18 it.

19 Q. All right. So did that get on you?

20 A. Yes, sir.

21 Q. And how did it affect you?

22 A. It burned my eyes really bad, had my eyes
23 real watery. But I was able to go to my aunt's house
24 to wash it out.

25 Q. All right. Did it get on anybody else?

1 Did you observe any effects on anybody else?

2 A. I know it got on my mother and my cousin,
3 Chandler.

4 Q. Okay. After you got hit by the spray, is
5 that -- did you immediately go to your other aunt's
6 house?

7 A. Yes, sir.

8 Q. What's her name?

9 A. Tanya.

10 Q. Okay. So you went to Tanya White's house?

11 A. Yes, sir.

12 Q. To flush it out of your eyes?

13 A. Yes, sir.

14 Q. Okay. Were you able to feel better after
15 that?

16 A. It was still burning. I got most of it --
17 I guess you would say, most of it out. But my eyes
18 were still burning, watering real bad.

19 Q. Okay. After the spray hit you, did you
20 observe anything about the actions of the other folks
21 that were standing around?

22 A. (Deponent moved head from side to side.)
23 No, sir.

24 Q. So it just affected your eyes and you
25 immediately went to your aunt's house who lives

1 nearby --

2 A. I squatted down first when he -- like, when
3 it hit me, I was -- like I dropped. I tried to wipe
4 it out, and I didn't get it out, so I ran to my
5 aunt's house.

6 Q. Okay. So did it have any effect on your
7 skin?

8 A. No, sir.

9 Q. Okay. Did you breath any of it in?

10 A. No, sir.

11 Q. So it was mainly just your eyes?

12 A. Yes, sir.

13 Q. And you believe it got on Chandler, as well
14 as your mother?

15 A. Yes, sir.

16 Q. Did you see them react to it?

17 A. Their eyes was real red and watery, too.

18 Q. Do you know what they did?

19 A. Chandler went in Dollar General. One of my
20 friends was there and he took Chandler in Dollar
21 General and washed his eyes out.

22 Q. Is that Hadji Perry?

23 A. Yes, sir.

24 Q. He's a friend of yours?

25 A. Yes, sir.

1 Q. How old is he?

2 A. He's like 23 to 24, somewhere around there.

3 Q. Okay. Does he go to church with you?

4 A. No, sir.

5 Q. How do you know him?

6 A. How do I know him?

7 Q. Yes.

8 A. Sports team.

9 Q. Sports?

10 A. Yes, sir. He be at all the football games
11 and all the practices. Just a good friend.

12 Q. Okay. After you washed out your eyes at
13 your aunt's, Aunt Tanya White?

14 A. Yes, sir.

15 Q. Then you came back to Dollar General?

16 A. Yes, sir.

17 Q. And what happened when you came back?

18 A. My mom told me that he wanted to arrest me.
19 And I was asking why. And she said that she didn't
20 know. And that's when he came over and put me in
21 handcuffs and put me in the car.

22 Q. Okay. Did Officer Turner explain to you
23 why he was arresting you?

24 A. No, sir.

25 Q. Okay. So he just put you in handcuffs and

1 Q. About how many?

2 A. It was -- well, Hadji was already there.
3 And this boy that I call him my brother, Ra'shard, he
4 was there. And now -- our quarterback now, him and
5 his parents were there. And that's about it.

6 Q. Did Hadji see the whole thing happen?

7 A. I'm not sure if he seen the whole thing
8 from when we got there. But he seen most it, I
9 think.

10 Q. Did he see your Aunt Charlotte getting
11 arrested?

12 A. I'm not sure. I'm not sure if he seen that
13 part.

14 Q. All right. So you were taken to the police
15 department. What happened then?

16 A. Okay. He comes around to my side. He
17 opens the door. He was like, get out.

18 I was like, how am I supposed to get out,
19 because I don't know how to get out of the back of a
20 police car.

21 Anyway, he said, you should be getting used
22 to getting out of the back of police cars.

23 I was like, hey -- I didn't really have
24 nothing else to say. And he helps me out.

25 Q. Had you ever ridden in a police car before?

1 A. No, sir.

2 Q. I guess, you've never been in handcuffs
3 before?

4 A. No, sir.

5 Q. So did he help you out or did you just --

6 A. He helped me out.

7 Q. Okay. And then did he take you into a
8 room?

9 A. Yes, sir. It was like the first room on
10 the right when you walk in the police station.

11 Q. Okay. And then what happened in that room?

12 A. I sat there for a minute. Him and my aunt
13 went back there to the back. And they did what they
14 had to do. He comes back and brings me some tissue
15 so I can wipe my face. My eyes was still watering.

16 Q. Okay. So you did some more to wipe your
17 eyes?

18 A. Yes, sir. It was like -- he gave me some,
19 like, paper towels to wipe my face.

20 Q. All right. Did anything else happen?

21 A. That was it.

22 Q. Do you remember anything else that was said
23 by Officer Turner?

24 A. No, sir.

25 Q. Who came to pick you up?

1 A. My aunt and my granny. I call her my
2 granny, but her name is Virgie.

3 Q. Did they pick you up?

4 A. Yes, sir.

5 Q. Did Michael Hall pick you up?

6 A. I think it was my granny.

7 Q. Okay. That's fine. Was there any kind of
8 agreement that you were aware of about releasing you?
9 Any discussion about that?

10 A. Not that I recall. I just remember being
11 told that I couldn't get into any more trouble until
12 I was 18.

13 Q. All right. Then were you taken to your
14 home?

15 A. Yes, sir.

16 Q. By the time you got to your home, were your
17 eyes still bothering you?

18 A. There were still watering.

19 Q. Okay. Did you flush them out some more
20 with water?

21 A. Yes, sir.

22 Q. Tell me about how long did your eyes
23 continue to bother you?

24 A. My eyes, they watered all night. Basically
25 all night. They just kept watering.

1 Q. All right. When did they get better?

2 A. Well, they were better when I woke up the
3 next morning. So after I slept on them, they were
4 better.

5 Q. So that next day did you have any problems
6 with your eyes?

7 A. No, sir.

8 Q. You didn't have any problem with your skin
9 or anything like that?

10 A. No, sir.

11 Q. Then what happened with the charges that
12 were filed against? Do you recall what the charge
13 was?

14 A. I can't remember what the charge was.

15 Q. Okay. Maybe something like disorderly
16 conduct?

17 A. I don't know.

18 Q. Do you know why you were being charged --
19 what you were being accused of?

20 A. No, sir.

21 Q. Okay. Did you have to go see a youth court
22 counselor?

23 A. Yes, sir.

24 Q. Okay. As I understand, this was about a
25 month or so after the arrest. Do you remember that?

1 A. No. My coach, he made a statement in
2 football practice. He said, we have some of our
3 teammates getting arrested at Dollar General. I
4 don't know what that was about, but we don't need
5 that happening. I felt that he was talking to me.

6 Q. Okay. Did you ever talk to your coach
7 about it to explain what happened?

8 A. No, sir.

9 Q. Did you ever have to sit on the bench or
10 anything because of it?

11 A. No, sir.

12 Q. How long have you been a starter?

13 A. Four years. Well this will be four years,
14 my senior year'll be four years.

15 Q. Can you think of anything, you know, school
16 or church, any activity or any opportunity that
17 you've been passed over because of this arrest?

18 A. No, sir.

19 Q. Have you just gone about your business
20 about being a good student and a good athlete, good
21 church member?

22 A. Yes, sir.

23 Q. Do you know of anybody that is either a
24 teacher, a church leader, a coach that looks at you
25 different because of this arrest?

1 A. I haven't seen anyone that looks at me
2 different. I hope it's not.

3 Q. There's nothing that you -- you don't know
4 about?

5 A. I don't know about it.

6 Q. If somebody thinks differently about it,
7 you haven't heard?

8 A. I haven't heard about it.

9 Q. Okay. Does the City of Nettleton Police
10 Department have a reputation in the community of
11 stopping young black men to question them?

12 A. Yes, sir.

13 Q. They do?

14 A. Yes, sir.

15 Q. What about young white men?

16 A. No, sir.

17 Q. Have you heard of any getting stopped and
18 questioned for walking around or loitering or
19 anything like that?

20 A. No, sir.

21 Q. Well, what have you heard about the police
22 department stopping young black men?

23 A. Okay. We can be like walking, like from --
24 okay, for instance, I stay like down the street, say
25 maybe three houses down from where one of my friends

1 stay at. And we walk back and forth. And like, I
2 say around 9 o'clock when we walking back home. Me
3 and him are walking back towards my house, the police
4 will drive on the side of us and ask us where we're
5 going and all that. And we tell them we're going
6 back to my house. He'll tell us we need to hurry up
7 and get there because Nettleton have a curfew.

8 Q. What time is the curfew?

9 A. I think they say 9 o'clock. They said the
10 curfew is at 9 o'clock. Then if we go home and we be
11 in the car, we drive past downtown Nettleton, ride
12 past Main Street, it's a whole bunch of white kids be
13 sitting out on the street downtown sitting out having
14 fun, you know. And we have to be in the house when
15 they can just sit out on the street and have fun, and
16 do whatever they want to do.

17 Q. Does Nettleton have a gang problem?

18 A. A what?

19 Q. A gang problem.

20 A. A gain problem?

21 Q. A gang, G-A-N-G?

22 A. Oh, not that I know of.

23 Q. Have they had a crime problem with
24 juveniles or young men? If you aware of it, I'm just
25 asking.

1 A. Not that I know of. Not that I can recall.

2 Q. Are you aware of any policy or directive
3 for police officers to stop young black men?

4 A. Can you, like, explain that?

5 Q. Yes. Do you know of anything official with
6 the City of Nettleton that instructs their officers
7 to pay special attention to young black men, to stop
8 them or question them?

9 A. No, sir.

10 Q. It just seems to happen; is that what
11 you're telling me?

12 A. Yes, sir.

13 Q. Do you know Chief Adams? The former chief?

14 A. Mr. Thomas?

15 Q. Yeah.

16 A. Yes, sir.

17 Q. How do you know him?

18 A. Well, we stayed, like, right across the
19 street from him before we moved.

20 Q. Okay. So you're acquainted with him. Does
21 he come to your ball games and stuff like that?

22 A. I've seen him at some football games, and
23 some baseball games.

24 Q. Okay. Did he know you personally?

25 A. Yes, sir.

1 Q. Did he talk to you at any time during the
2 arrest or at the police department?

3 A. No, sir.

4 Q. Did you ever see him?

5 A. I seen him at the Dollar General when I was
6 walking towards the police car.

7 Q. When you were in handcuffs?

8 A. Yes, sir.

9 Q. I understand your mother talked to him.
10 Did you see her talking to him?

11 A. I remember her going to talk to him. I
12 don't know what was said between them, so.

13 Q. Do you know if he was involved in getting
14 you released?

15 A. Not that I know of, I don't know.

16 Q. Did you suffer from any other problems
17 other than the eyes that we talked about as a result
18 of the pepper spray or the arrest?

19 A. No, sir.

20 Q. Have you seen any doctor or counselor or
21 psychologist as a result of this arrest?

22 A. No, sir.

23 Q. Have you ever had any nightmares? stomach
24 problems?

25 A. No, sir. It just something -- I don't like

1 MR. HALBERT: Well, first of
2 all, let me object again to the
3 suggestive nature of the questions
4 and the leading nature of them, but
5 you can go ahead and answer the
6 question.

7 Q. (Mr. Barton continuing): Just try to be a
8 little more specific as you can as to how it appeared
9 to you that he -- his emotional state.

10 A. Well, I think he was scared, not like -- he
11 was terrified.

12 Q. He was terrified?

13 A. Yes, sir.

14 Q. From your observation was he a threat to
15 anyone?

16 A. No, sir. I don't think.

17 Q. You said no?

18 A. I'm not sure.

19 Q. Well did you feel like he was a threat to
20 anyone?

21 A. Yes, sir.

22 Q. To who?

23 A. Maybe Officer Turner.

24 Q. What you're saying is, you were concerned
25 that me might come to the defense of his mom?

Personally appeared before me, the undersigned officer of said court, Gerry Turner
who stated under oath that Charlotte M. Smith, B.F., 12-15-65, 597-37-2192, 3/10/62 Smith Dr. Over a
did, on or about the 26th day of January, 20 06, unlawfully and
willfully:

profanely curse at Dollar General a public place in
the presence of two or more persons by saying "you
don't telling me shit" this did occur within the
city limits of Nettleton, MS.

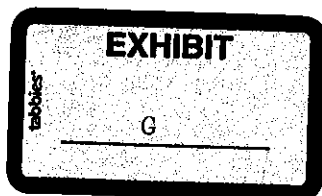
In violation of the peace, dignity and laws of the State of Mississippi and/or the ordinances of said city
within the corporate limits of said city for which he did arrest said defendant(s) and charged said
defendant(s) with

Profanity in a Public Place 97-29-47

Dana Smith
Affiant

Sworn to and subscribed before me this the 26 day of January, 20 06
Defendant may be released on bail upon making bail bond in the amount of \$ _____,
Conditioned upon appearance in court for arraignment on the _____ day of _____
20 _____, at _____ am / pm.

Dana Smith
Municipal Judge/ Court Clerk/ Deputy Clerk



MONROE COUNTY YOUTH COURT JUVENILE RELEASE AGREEMENT

TO: Darius Smith
 Sex Male Race Blk DOB 7-29-90 Age 15
 Date 1-22-06 Time In 16:35 Time Out 17:10

You have been charged with Disorderly Conduct
 and you are hereby released upon the following conditions:

1. Unless you are returning from work or a school activity you will not be out after dark unless accompanied by a parent or guardian.
2. You will attend school or work daily if you are now in school or working.
3. You will keep all appointments made by the Court's Youth Counselor.
4. You will not leave Monroe County without prior approval of your Youth Counselor.
5. You will not associate with the following people:

NA

6. You will not visit the following places: All pool halls, any places serving alcoholic beverages or where alcoholic beverages are present:

7. Special provisions to be determined by Juvenile Officer:

8. You are to appear in the Youth Court on the date and time which appears on the Youth Court Summons - which you will receive at a future date.

If you are apprehended breaking any of the above conditions, you will be immediately placed in the Monroe County Youth Court Detention Facility until your hearing.

[Signature]
Juvenile

1/22/06

Date

The above restrictions are for the good and protection of your child. It is assumed that you will cooperate in every way possible with the Police and the Court. If you have difficulty in enforcing the above regulations, or your child runs away, you should immediately notify the Police and the Court. Any change of your address or phone number will be given immediately to the Court and Police.

Gerry Turner
Releasing Officer

New Orleans Police Dept
Department

[Signature] 1-22-06
Father or Guardian Date

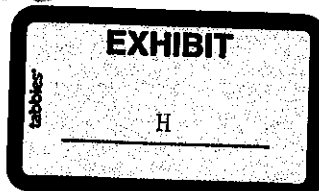
Mother or Guardian Date

Box 13006 Levee Ave.
Address

People lounge
Work Address

963-2109 963-7301
Phone No. (Home) (Work) Phone No.

Spoke w/Thomas on 1/24; stated
 it was okay for Darius to continue
 w/ normal activities, if there was
 a problem to contact him.



STATE OF MISSISSIPPI
ABSTRACT OF CRTMAST RECORD
CITY OF NETTLETON
PO BOX 1301
NETTLETON, MS 38858
662/963-2605

COUNTY: LEE/MONROE

AGENCY CODE: 4103

DOCKET NO: 200000886

DEFENDANT INFORMATION:

NAME: SMITH, CHARLOTTE
ADD: 30062 SMITH DR
OKOLONA, MS 38863

RACE: BLACK SEX: FEMALE
DL NO: 587372182
BIRTH DATE: 12/15/1965

CRTMAST INFORMATION:

CHARGE: PUBLIC PROFANITY

DATE: 01/22/2006

OFFICER: GARY TURNER

JUDGE: ANDY HOOD

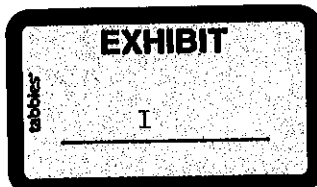
COURT DATE: 04/11/2006 PLEA: NOT GUILTY

DISPOSITION: NOT GUILTY

FINE: .00 ASSESSMENTS: .00 TOTAL FEE: .00

I CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF CITY OF NETTLETON
RECORD AS RECORDED IN DOCKET BOOK NO: PAGE:

SIGNER: Dana Smith TITLE: court clerk





STATE OF
MISSISSIPPI

Board of Law Enforcement Officer Standards and Training

Hereby awards this

Professional Certificate

TO

GERRY W. TURNER

425-49-0117

This 10th day of SEPTEMBER, 19 98

As being qualified to be a Mississippi Law Enforcement Officer under Provisions of Chapter 474, General Laws of Mississippi, 1981.

Certificate No. 11715

Director
Board on Law Enforcement
Standards and Training

Sam B. Waller

Chairman
Board on Law Enforcement
Standards and Training

Russ Fargnoli

EXHIBIT

J

tabbles